

REMARKS

This amendment is in response to the Office Action mailed May 24, 2005. In light of the amendments and arguments included herein, Applicant respectfully requests reconsideration.

Allowable Subject Matter

Applicant acknowledges with appreciation the indicated allowability of claims 4-5, 7, and 10 if rewritten to include all the limitations of the respective base claims. Applicant has amended the indicated claims to contain all the limitations of the respective base claims (with the slight exception of claim 10 as discussed below). Accordingly, claims 4-5, 7, and 10 are in condition for allowance and Applicant respectfully requests that the objections to claims 4-5, 7, and 10 be withdrawn.

Election/Restrictions

The Office Action indicates on page 2 that claims 8-9 are withdrawn from further consideration as being drawn to a nonelected species, because there is no allowable generic or linking claim. Applicant respectfully disagrees that claims 8-9 are drawn to a non-elected species. However, as discussed in the arguments below, claim 1 is in allowable form at this time. Claims 8-9 depend indirectly from independent claim 1, and therefore are allowable for at least the same reasons.

Objections to the Drawings

The drawings stand objected to for failing to show every feature of the invention specified in the claims. Specifically, the drawings are objected to for failing to show "the frame hingedly attached to the rear corner posts of claim 1," as indicated on page 2 of the Office Action. Applicant respectfully traverses this objection.

Applicant respectfully directs the Examiner's attention to Figure 4A. As described on page 6 of the specification, Figure 4A illustrates a front view of a side attachment 405 of the

universal cargo bucket system to a tailgate. As described on page 4 of the specification, and illustrated in Figure 4A, one embodiment of the present invention includes a frame 220, further including a right bar 230. A rear corner post 150 is also shown. The side attachment 405 includes, among other things, the right bar 230 of the frame 220, the rear corner post 150, and a hinge receiver 445 and hinge post 450. As such, Applicant respectfully submits that the claimed element is illustrated.

The drawings are also objected to for failing to show "gears reducing the amount of force required to pivot the cargo bucket," as indicated on page 2 of the Office Action. We have cancelled this feature from the pending claims 5 and 10, which we believe moots the objection.

Objections to the Specification

The Office Action includes on page 3 a description of the proper form for an abstract. However, the Office Action does not explicitly state an objection to the abstract. Nonetheless, the abstract has been amended and is in conformance with the requirements listed on page 3 of the Office Action. Accordingly, Applicant respectfully requests that any objection to the abstract be withdrawn.

Objections to the Claims

Claim 1 stands objected to as listed on page 3 of the Office Action. Applicant has amended claim 1 and respectfully requests that the objection be withdrawn.

Claim Rejections

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillet (U.S. Pat. No. 4,266,821) in view of Sloan (U.S. Pat. No. 4,741,575). Applicant respectfully traverses this rejection.

Gillet

Gillet teaches a combined tail gate and toolbox. His invention is directed toward satisfying the need for a toolbox that **remains upright** in both stored and extended positions

(col. 1, lines 11-15) (emphasis added). His invention also is directed at avoiding the need to lift the toolbox because of the considerable weight of a toolbox with tools (col. 1, lines 11-18). To satisfy these needs As shown in Figures 1-3, Gillet provides a tailgate 16 hinged at 18 to the rear bottom edge of a pick-up box 12 (col. 1, lines 57-62). Stanchions 22 pivotally support a toolbox 26 using pivoting mounting means, shown as trunnions 32 in Figure 4 (col. 1, line 63-col. 2, line 3). "The pivot mounting means **must be** above the center of gravity of the toolbox **so that the toolbox will remain upright** when suspended on the stanchions 22." (col. 2, lines 4-6) (emphasis added).

Sloan

Sloan teaches a pneumatically actuated dumping bin. Figure 1 illustrates a pneumatically actuated dumping bin 20 in the cargo bed 22 of pickup truck 24 (col. 2, line 67-col. 3, line 1). The pneumatically actuated dumping bin 20 may include a handle 36, shown in Figures 2-4 (col. 3, lines 54-58). As shown in Figure 1, the pneumatically actuated dumping bin 20 is in a first travel position (col. 3, lines 12-14). When it is desired to dump the contents of the pneumatically actuated dumping bin 20, the bin is moved rearward in the bed 22 to a second dumping position shown in Figure 2 (col. 3, lines 31-35). From the second dumping position shown in Figure 2, the a pneumatic cylinder and piston 30 is actuated to cause the pneumatically actuated dumping bin 20 to pivot about a midsection of the bin, as shown in Figure 3 (col. 3, lines 35-41). The pivoting is not performed manually. The handle 36 may facilitate a manual pulling of the pneumatically actuated dumping bin 20 from the first travel position, shown in Figure 1, to the second dumping position, shown in Figure 2 (col. 3, lines 54-58). Moving the bin 20 from the first travel position to the second dumping position does not include pivoting the bin 20.

The Office Action Fails to Establish a Prima Facie Case of Obviousness

Applicant respectfully asserts that the Office Action has failed to establish a prima facie case of obviousness with respect to the rejection of independent claim 1 over the combination of Gillet with Sloan. M.P.E.P. § 2143.03 states that establishing a prima facie case of obviousness requires that all the claim limitations be taught or suggested by the prior art. "All words in a

claim must be considered in judging the patentability of that claim against the prior art.”

M.P.E.P. § 2143.03 (*citing In re Wilson*, 424 F.2d 1382, 1385).

Claim 1 recites a cargo bucket system comprising a frame hingedly attached to rear corner posts of a vehicle. The cargo bucket system further comprises a cargo bucket pivotally attached to said frame, a locking mechanism for securing said frame in an upright position to said rear corner posts, and a handle for pivoting said cargo bucket. Applicant respectfully asserts that Gillet and Sloan, and the combination thereof, fail to teach or suggest at least the claimed handle for pivoting said cargo bucket. As indicated on page 4 of the Office Action, Gillet lacks the claimed handle for pivoting said cargo bucket. Further, Sloan lacks the claimed handle for pivoting said cargo bucket. As previously discussed, the handle of Sloan is not used for pivoting the pneumatically actuated dumping bin 20, but rather is used for moving the bin 20 from the first travel position (Figure 1) to the second dumping position (Figure 2) (col. 3, lines 54-58). Movement from the first travel position to the second dumping position does not include pivoting the bin 20. Sloan does not suggest that the handle 36 be used for pivoting the pneumatically actuated dumping bin 20. Therefore, neither Gillet nor Sloan teach or suggest, either alone or in combination, the claimed handle for pivoting said cargo bucket. Accordingly, Applicant respectfully requests that the rejection of independent claim 1 be withdrawn.

Claims 2, 3, 6, 8, and 9 depend directly or indirectly from independent claim 1, and are allowable for at least the same reasons.

There is No Motivation to Combine Gillet With Sloan

Applicant respectfully asserts that the Office Action fails to establish a motivation to combine Gillet with Sloan. The rejection of claim 1 indicates on page 4 of the Office Action that the combination of the handle 36 of Sloan with the tail gate and toolbox system of Gillet would be motivated by a desire to aid a user in movement of the toolbox of Gillet. Applicant respectfully disagrees.

As previously discussed, Gillet is directed toward satisfying the need for a toolbox that remains upright in both stored and extended positions (col. 1, lines 11-15). “The pivot mounting means must be above the center of gravity of the toolbox so that the toolbox will remain upright

when suspended on the stanchions 22.” (col. 2, lines 4-6) Therefore, a handle is not needed in the system of Gillet to accomplish the objective of providing a toolbox that remains upright. One of skill in the art would not be motivated to add such a handle.

Furthermore, the handle of Sloan is not used for pivoting the pneumatically actuated dumping bin 20, but rather is used for moving the bin 20 from the first travel position to the second dumping position (col. 3, lines 54-58). Movement from the first travel position to the second dumping position does not include pivoting the bin 20. Therefore, one of skill in the art would not be motivated to modify the toolbox 26 of Gillet by adding the handle 36 of Sloan. Applicant respectfully submits that the Examiner has improperly used hindsight, knowing of the Applicant's claims, to find a motivation for combining Gillet with Sloan. For this reason, the combination of Gillet with Sloan is improper and cannot be used to provide the elements of claim 1. Accordingly, claim 1 is allowable over the combination of Gillet with Sloan, and Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Claims 2, 3, 6, 8, and 9 depend directly or indirectly from independent claim 1, and are allowable for at least the same reasons.

The Proposed Modification Would Render the Prior Art Unsatisfactory for Its Intended Purpose

Applicant respectfully asserts that the proposed modification of Gillet by addition of the handle of Sloan is improper because it would render Gillet unsatisfactory for its intended purpose. M.P.E.P. § 2143.01 states that there is no suggestion or motivation to modify a prior art reference when the proposed modification would render the prior art unsatisfactory for its intended purpose.

As previously discussed, Gillet is directed toward satisfying the need for a toolbox that remains upright in both stored and extended positions (col. 1, lines 11-15). Modifying the toolbox by adding the handle 36 of Sloan to aid a user in movement of the toolbox would defeat the purpose of Gillet to provide a toolbox that remains upright. Accordingly, there is no motivation to modify Gillet with the handle of Sloan.

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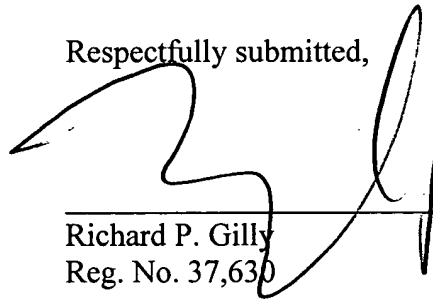
Attorney's Docket No.: 16627-002001

Applicant respectfully requests that the rejection of independent claim 1 in view of Gillet combined with Sloan be withdrawn.

Claims 2, 3, 6, 8, and 9 depend directly or indirectly from independent claim 1, and are allowable for at least the same reasons.

Enclosed is a \$100.00 check for excess claim fees. If any other fees or charges are deemed necessary, please consider this a petition therefor and please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,



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